In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.5429 of 2006.

Date of decision:17.10.2006.

Mohinder Kaur and others.

...Petitioners.

Versus

Narinder Kumar and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.Vikas Jain Advocate for the petitioners.

...

Judgment.

S. N. Aggarwal, J.

Narinder Kaur respondent filed a civil suit for permanent injunction against the petitioners and others on the basis of family settlement alleged to have been executed between the parties on 9.7.1981. On the other hand, the petitioners had set up family settlement dated 10.7.1981.

An issue was framed.

Narinder Kaur respondent led the evidence and thereafter Mohinder Kaur petitioner also led the evidence. She also examined Finger Print and Handwriting Expert to prove that the family settlement

dated 9.7.1981 did not bear the signatures of the petitioner. Narinder Kaur sought permission of the Court to examine Document Expert in rebuttal. The said application was allowed by the learned trial Court vide the impugned order dated 18.9.2006.

Hence, the present petition.

The submission of learned counsel for the petitioners was that the onus to prove family settlement dated 9.7.1981 was on Narinder Kaur respondent. Thereafter she had no right to lead rebuttal evidence. The learned trial Court has observed that the onus of issue No.2 was on both the parties as the petitioners had set up counter settlement dated 10.7.1981. Therefore, Narinder Kaur respondent had the right to lead rebuttal evidence.

The learned counsel for the petitioners submitted that since the petitioners had not led any evidence to prove settlement dated 10.7.1981, therefore, Narinder Kaur had no right to lead rebuttal.

This submission has been considered. It has no merit at all. Since the onus of issue regarding family settlement was on both the parties, therefore, Narinder Kaur respondent had the right to lead rebuttal to the evidence led by the petitioners by way of examining Finger Print and Document Expert. Moreover, the learned trial Court, in the exercise of judicial discretion had allowed the application by passing a detailed and well reasoned order. This Court finds no reason to interfere with it.

No merit.

Dismissed.

October 17,2006. (S. N. Aggarwal)
Jaggi Judge